REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2010

REVENUE RECEIPTS

(Report No. 3)

GOVERNMENT OF TAMIL NADU

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PREFACE

This Report for the year ended 31 March 2010 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax/value added tax, luxury tax, land revenue, taxes on vehicles and state excise.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2009-10 as well as those noticed in earlier years, but could not be included in the previous years' reports.

OVERVIEW

The Report contains 22 paragraphs including one review relating to non/short levy of taxes, interest, penalty, etc. involving ₹ 149.13 crore. Some of the major findings are mentioned below:

I General

The total receipts of the State during 2009-10 was ₹ 55,844.13 crore, comprising ₹ 36,546.66 crore as tax revenue and ₹ 5,027.05 crore as non-tax revenue. ₹ 8,756.20 crore was received from the Government of India as State's share of divisible Union taxes and ₹ 5,514.22 crore as grants-in-aid. The revenue raised by the State Government in 2009-10 was 74 *per cent* of the total revenue receipts as compared to 72 *per cent* in 2008-09. Sales tax (₹ 22,661.52 crore) formed a major portion (62 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits (₹ 1,845.61 crore) accounted for 37 *per cent* of the non-tax revenue.

(Paragraph 1.1)

Test check of the records relating to sales tax, value added tax, luxury tax, state excise, land revenue and taxes on vehicles conducted during the year 2009-10 revealed under assessments, short levy, loss of revenue and other observations amounting to ₹ 343.98 crore in 1,406 cases.

(Paragraph 1.5.1)

II Commercial Taxes

A Sales Tax/Value Added Tax

A review on **"Computerisation of the check posts in Commercial Taxes Department"** revealed as under:

- Large scale omission to collect goods movement details at the check posts resulted in ineffective monitoring of taxes due to the State.

(Paragraph 2.12.7.1)

- No action was taken to levy tax amounting to ₹ 14.99 crore on the value of goods and penalty of ₹ 22.49 crore thereon in respect of transit passes issued during 2007-08 to 2009-10 by selected six check posts, which were not surrendered.

(Paragraph 2.12.7.2)

- Absence of mandatory provisions for Fast Track Clearance System resulted in poor patronage of the scheme and non-achievement of the benefits envisaged.

(Paragraph 2.12.7.3)

- Lack of input control on vital information like Tax payers Identification Number and commodity code led to incorrect capturing of vehicle movement details.

(Paragraph 2.12.8.3)

- Failure to utilise the available information resulted in movement of goods by non-filers, unregistered, cancelled and bogus dealers across the check posts involving tax and penalty of ₹ 39.78 crore.

(Paragraph 2.12.9)

The objective of the amendment to the Central Sales Tax Act, viz., to encourage inter-state trade between registered dealers by providing for compulsory furnishing of Form 'C' declarations to avail the concessional rate of tax was defeated by issue of two Government Orders granting waiver and refund of tax on inter-state sale of hosiery goods, not covered by 'C' form declarations.

(Paragraph 2.14.2)

The exemption incorrectly granted on inter-state sale of soya husk made by a dealer during 2002-03 resulted in non-levy of tax of ₹ 23.60 lakh

(Paragraph 2.14.3.1)

The exemption granted, as sale of imported chemicals in the course of export, though the goods actually exported were 'sea foods', resulted in non-levy of tax of ₹ 35.36 lakh.

(Paragraph 2.14.3.2)

Application of incorrect rates of tax in four cases resulted in short levy of tax of ₹ 32.05 lakh.

(Paragraph 2.14.4)

In two assessment circles, short levy of tax of ₹ 38.38 lakh was noticed in two cases.

(Paragraph 2.14.7)

The erroneous treatment of sale as works contract resulted in short levy of tax of ₹ 27.84 lakh in two cases.

(Paragraph 2.14.8)

B Luxury Tax

Cross verification of income tax returns of the proprietors of hotels with the turnover reported by them to the authorities of the Commercial Taxes Department for payment of luxury tax revealed non/short levy of luxury tax of ₹ 79.86 lakh in five cases.

(Paragraph 2.15.1)

III Other Tax Receipts

Taxes on vehicles

There was non-levy of additional tax in respect of 8,677 temporary permits issued to stage carriages amounting to ₹ 7.05 crore.

(Paragraph 3.3.1)

There was short collection of tax due to non-levy of composite tax at enhanced rate to the tune of ₹ 36.92 lakh.

(Paragraph 3.3.2)

There was short collection of tax in respect of temporary permits issued to other state omni buses amounting to ₹ 37.03 lakh.

(Paragraph 3.3.3)

Land revenue

In 15 taluks, Government lands valued at ₹ 178.31 crore were encroached upon by 40 private engineering colleges.

(Paragraph 3.5.1)

Non-fixing of land cost in two taluks resulted in non-realisation of land cost of ₹ 2.36 crore.

(Paragraph 3.5.2)

In two taluks, due to non-fixing of land value, lease rent of ₹ 3.62 crore could not be collected.

(Paragraph 3.5.3)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2009-10, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are as mentioned below:

(₹ in crore)

Sl. No.	Particulars	2005-06	2006-07	2007-08	2008-09	2009-10
1.	**Revenue raised by the State Government**					
	• Tax revenue	23,326.03	27,771.15	29,619.10	33,684.37	36,546.66
	• Non-tax revenue	2,600.75	3,422.57	3,304.37	5,712.33	5,027.05
	Total	**25,926.78**	**31,193.72**	**32,923.47**	**39,396.70**	**41,573.71**
2.	**Receipts from the Government of India**					
	• State's share of divisible Union taxes	5,012.74	6,393.86	8,065.27	8,510.80	8,756.20[1]
	• Grants-in-aid	3,020.47	3,325.65	6,531.77	7,135.01	5,514.22
	Total	**8,033.21**	**9,719.51**	**14,597.04**	**15,645.81**	**14,270.42**
3.	**Total receipts of the State Government (1 + 2)**	33,959.99	40,913.23	47,520.51	55,042.51	55,844.13
4.	**Percentage of 1 to 3**	**76**	**76**	**69**	**72**	**74**

The above table indicates that during the year 2009-10, the revenue raised by the State Government (₹ 41,573.71 crore) was 74 *per cent* of the total revenue receipts against 72 *per cent* in the preceding year. The balance 26 *per cent* of the receipts during 2009-10 was from the Government of India.

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[1] For details please see Statement No. 11 – Detailed accounts of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2009-10. Figures under the head '0021 – Taxes on income other than corporation tax – Share of net proceeds assigned to states' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the state and included in 'State's share of divisible Union taxes' in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Sales tax	15,554.69	17,727.16	18,156.36	20,674.70	22,661.52	(+) 9.61
2.	State excise	3,176.65	3,986.42	4,764.06	5,755.52	6,740.68	(+) 17.12
3.	Stamp duty and registration fees						
	Stamps – judicial	63.83	68.79	76.87	79.58	78.63	(-) 1.19
	Stamps – non-judicial	1,677.01	2,442.89	3,124.92	3,127.28	3,019.98	(-) 3.43
	Registration fees	344.02	485.78	602.95	586.82	563.55	(-) 3.97
4.	Taxes on vehicles	1,124.93	1,260.88	1,483.21	1,709.57	2,024.64	(+) 18.43
5.	Land revenue	179.48	120.68	78.03	207.73	116.66	(-) 43.84
6.	Taxes on immovable property other than agricultural land (urban land tax)	11.86	14.45	15.75	11.79	12.01	(+) 1.87
7.	Others	1,193.56	1,664.10	1,316.95	1,531.38	1,328.99	(-) 13.22
	Total	**23,326.03**	**27,771.15**	**29,619.10**	**33,684.37**	**36,546.66**	**(+) 8.5**

The following reasons for variation were reported by the concerned departments:

State excise: The increase of revenue was due to increase in the sale of Indian Made Foreign Spirits and beer.

Taxes on vehicles: The increase of revenue was due to introduction of road safety tax in 2009-10.

Land revenue: The decrease of revenue was mainly due to elimination of local cess and local cess surcharge and other levies from fasli 1419 (2009-10).

The other departments did not furnish (December 2010) the reasons for variation despite being requested (July 2010).

1.1.3 The following table presents the details of non-tax revenue raised during the period from 2005-06 to 2009-10:

(₹ in crore)

Sl. No.	Head of revenue	2005-06	2006-07	2007-08	2008-09	2009-10	Percentage of increase (+)/ decrease (-) in 2009-10 over 2008-09
1.	Interest receipts, dividends and profits	819.91	1,134.00	1,282.20	1,501.09	1,845.61	(+) 22.95
2.	Crop husbandry	66.43	74.45	82.41	73.53	92.54	(+) 25.85
3.	Forestry and wild life	138.59	82.31	46.42	82.65	86.90	(+) 5.14
4.	Non-ferrous mining and metall-urgical industries	465.68	566.64	581.76	527.36	610.89	(+) 15.84
5.	Education, sports, art and culture	209.98	215.83	301.40	302.74	383.64	(+) 26.72
6.	Other receipts	900.16	1,349.34	1,010.18	3,224.96	2,007.47	(-) 37.75
	Total	**2,600.75**	**3,422.57**	**3,304.37**	**5,712.33**	**5,027.05**	**(-) 12**

In respect of non-ferrous mining and metallurgical industries the variation as reported by the Industries department was due to the increased production of minerals which led to collection of more royalty, seigniorage fees, etc.

The other departments did not furnish (December 2010) the reasons for variation despite being requested (July 2010).

1.2 Response of the departments/Government towards audit

1.2.1 Failure of the senior officials to enforce accountability and protect the interest of the State Government

The Principal Accountant General (Commercial & Receipt Audit), Tamil Nadu (PAG) arranges to conduct periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with inspection reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance

through initial replies to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the departments and the Government.

We reviewed the IRs issued upto 31 December 2009 and found that 23,636 paragraphs involving ₹ 3,442.72 crore relating to 7,204 IRs remained outstanding at the end of June 2010 as mentioned below along with the corresponding figures for the preceding two years:

	June 2008	June 2009	June 2010
Number of outstanding IRs	7,271	7,213	7,204
Number of outstanding audit observations	23,624	24,693	23,636
Amount involved (₹ in crore)	2,951.86	3,417.03	3,442.72

The department-wise details of the IRs and audit observations outstanding as on 30 June 2010 and the amounts involved are mentioned below:

Sl. No.	Name of the department	Nature of receipts	Number of outstanding		Money value involved (₹ in crore)
			Inspection reports	Audit obser-vations	
1.	Commercial Taxes and Registration	Sales tax	3,416	15,950	1,186.41
		Stamp duty and registration fees	1,239	2,635	260.32
		Entry tax	164	295	5.82
		Entertainment tax	56	61	2.18
		Luxury tax	110	128	2.28
		Betting tax	12	23	0.09
2.	Revenue	Land revenue	836	1,855	1,301.67
		Urban land tax	260	692	45.17
		Taxes on agricultural income	72	175	81.03
3.	Home (Transport)	Taxes on vehicles	459	841	96.36
4.	Home (Prohibition and Excise)	State excise	207	288	79.05
5.	Industries	Mines and minerals	297	557	342.75
6.	Energy	Electricity duty	76	136	39.59
Total			**7,204**	**23,636**	**3,442.72**

Even the first replies required to be received from the heads of offices within one month from the date of issue of IRs were not received for 137 IRs issued upto December 2009. This large pendency of IRs due to non-receipt of the

replies is indicative of the fact that the heads of offices and heads of the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by us in the IRs.

We recommend that the Government take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as take action against officials/officers who did not send replies to the IRs/paragraphs as per the prescribed time schedules and also did not take action to recover the loss/outstanding demand in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government set up audit committees (during various periods) to monitor and expedite the progress of the settlement of the paragraphs in the IRs. The details of the audit committee meetings held during the year 2009-10 and the paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	Number of paragraphs settled	Money value involved (₹ in crore)
Sales tax	29	1,033	4.44
Taxes on vehicles	3	116	5.01
State excise	2	28	15.49
Land revenue	3	67	0.51
Total	**37**	**1,244**	**25.45**

It may be seen from the table that though 37 meetings were conducted and 1,244 paragraphs were settled, the money value involved in these observations was not even one *per cent* of the total money value of the outstanding audit observations. This indicates that final rectificatory action has not been taken in respect of observations involving higher financial implications and thus they remain unresolved.

We recommend that the Government may suitably instruct the concerned departments to take rectificatory action on all audit observations, particularly those which are pending for a long time.

1.2.3 Non-production of records to audit for scrutiny

We draw up the programme of local audit of commercial tax offices sufficiently in advance and issue intimations, usually one month before the local audit, to the department to enable them to keep the relevant records ready for audit scrutiny.

During 2009-10, 16,702 sales tax assessment records relating to 235 offices were not made available to us for audit. Of these, 253 assessments pertain to six special circles, where assessments of major dealers are dealt with.

The delay in production of records for audit would render audit scrutiny ineffective, as rectification of under-assessments, if any, might become barred by limitation, by the time these files are produced to audit.

We brought the matter regarding non-production of records in each office and arrears in assessment to the notice of the department through the local audit reports of the respective offices.

The non-production of assessment records defeats the accountability of the executive and also hinders the discharge of duties of the Comptroller and Auditor General of India as enshrined in the Constitution.

1.2.4 Response of the departments to draft audit paragraphs

The Government (Finance Department) issued directions (April 1952) to all departments to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks from the date of receipt of the draft paragraphs. The draft paragraphs are forwarded to the Secretaries of the concerned departments through demi-official letters, drawing their attention to the audit findings with a request to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

We forwarded 43 draft paragraphs (clubbed into 22 paragraphs including one review) proposed to be included in the Report of the Comptroller and Auditor General of India for the year ended March 2010 to the Secretaries of the respective departments during March-September 2010 through demi-official letters. The Secretaries of the departments did not send replies to 31 draft paragraphs. Thus, there was non-compliance to the above mentioned instructions of the Government. Therefore, these paragraphs have been proposed for inclusion in the report without the response of the Secretaries of the departments concerned.

1.2.5 Follow-up on Audit Reports

With a view to ensuring accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) had directed that the department concerned should furnish remedial/corrective Action Taken Notes (ATN) on the recommendations of PAC relating to the paragraphs contained in the Audit Reports within the prescribed time frame. We reviewed the outstanding ATNs as of 31 March 2010 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu and found that the departments had not submitted the ATNs for 982 recommendations pertaining to 291 audit paragraphs discussed by PAC. Out of the pending 982 recommendations, ATNs have not been received in respect of 409 recommendations even once, the earliest of which relates to the Audit Report-1986-87.

Further, PAC has also laid down that necessary explanatory notes for those issues mentioned in the Audit Reports should be furnished to the Committee within a maximum period of two months from the date of placing of the Report before the Legislature. Though the Audit Reports for the years from

2000-01 to 2008-09 were placed before the Legislative Assembly between May 2002 and May 2010, the departments are yet to submit explanatory notes for 99 paragraphs (including 13 reviews) included in these reports.

1.2.6 Compliance with the earlier Audit Reports

During the period from 2004-05 to 2008-09, the departments/Government accepted audit observations involving ₹ 154.43 crore, of which ₹ 79.04 crore had been recovered till 31 October 2010 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2004-05	576.20	7.39	3.25
2005-06	228.71	5.18	2.26
2006-07	151.38	87.84	64.68
2007-08	408.47	46.49	7.40
2008-09	337.40	7.53	1.45
Total	**1,702.16**	**154.43**	**79.04**

The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports and take necessary steps for early collection.

1.3 Analysis of the mechanism for dealing with the issues raised by audit

In order to analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last five years in respect of one department is evaluated and included in each Audit Report.

Accordingly, the succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Home (Transport) department** to deal with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2004-05 to 2008-09.

1.3.1 Position of inspection reports

The summarised position of IRs issued in respect of the Transport Department during the last five years, paragraphs included in these reports and their status as on 30 September 2010 are tabulated below:

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2004-05	346	1,046	67.44	45	178	9.60	5	48	0.12	386	1,176	76.92
2005-06	386	1,176	76.92	48	222	8.71	3	64	6.33	431	1,334	79.30
2006-07	431	1,334	79.30	49	232	3.99	24	307	4.97	456	1,259	78.32
2007-08	456	1,259	78.32	41	214	7.37	9	84	1.92	488	1,389	83.77
2008-09	488	1,389	83.77	47	200	7.38	66	281	19.71	469	1,308	71.44

It is seen from the above table that there is no significant reduction in the outstanding IRs as well as paragraphs over the years.

We recommend that the Government may issue suitable instructions to the department to take appropriate steps to clear the outstanding audit observations at the earliest.

1.3.2 Assurances given by the department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

The position of paragraphs in respect of the Transport Department included in the Audit Reports of the last five years, those accepted by the department and the amount recovered are mentioned below:

(₹ in lakh)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted	Money value of accepted paragraphs	Amount recovered
2004-05	2	90.65	2	90.65	4.94
2005-06	0	0.00	0	0.00	0.00
2006-07	2*	30.66	1	30.66	10.98
2007-08	1**	24,000.00	1	361.00	4.00
2008-09	1	36.62	1	36.62	20.01
Total	**6**	**24,157.93**	**5**	**518.93**	**39.93**

* Includes one review on Computerisation of the Transport Department

** Relates to review on Receipts from Motor Vehicles Tax

The above table indicates that the overall percentage of recoveries of the accepted cases is less than 10 *per cent* which is very low.

The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports.

1.3.2.2 Action taken on the recommendations accepted by the department/Government

The draft performance reviews are forwarded to the concerned department/Government for their information with a request to furnish their replies. These reviews are also discussed in an exit conference and the department's/Government's views are included while finalising the reviews for the Audit Reports.

The following table shows the issues highlighted in the reviews on the Home (Transport) department featured in the last five Audit Reports including the recommendations and action taken by the department on the recommendations accepted by it as well as the Government.

Year of Audit Report	Name of the review	Number of recommendations	Details of the recommendations accepted
AR 2006-07	Computerisation of the Transport Department	4	1
AR 2007-08	Receipts from Motor Vehicles Tax	3	---

1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which, *inter-alia*, include critical issues in Government revenues and tax administration i.e., budget speech, White Paper on state finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2009-10, the audit universe comprised 1,377 auditable units, of which 665 units were planned and audited during the year 2009-10 i.e., 48 *per cent* of the total auditable units. The details are shown in the annexure.

Besides the compliance audit mentioned above, a comprehensive review on the Registration Department (Stand Alone Report) and a review on the Computerisation of the Check Posts of Commercial Taxes Department were also taken up during the year.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

We test checked the records of 388 units[2] of commercial taxes, land revenue, state excise and motor vehicles tax in 2009-10 and found underassessments, short levy, loss of revenue and other observations amounting to ₹ 343.98 crore in 1,406 cases. During the year, the departments accepted underassessments and other deficiencies in 946 cases involving ₹ 14.51 crore of which 364 cases involving ₹ 6.83 crore were pointed out in 2009-10 and the rest in earlier years. The departments collected ₹ 10.95 crore during 2009-10.

1.5.2 This Report

This Report contains 22 paragraphs including one review (information technology) relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving financial effect of ₹ 149.13 crore. The departments/Government accepted audit observations involving ₹ 8.56 crore, of which ₹ 5.07 crore had been recovered/adjusted by the departments. We have not received replies in the remaining cases (December 2010). These are discussed in the succeeding chapters II & III.

[2] Offices of the Stamp Duty and Registration Fees audited during the year have not been included as they are projected in the Stand Alone Report.

CHAPTER II

COMMERCIAL TAXES

2.1 Tax administration

The assessment, levy and collection of Value Added Tax are governed by the Tamil Nadu Value Added Tax Act, 2006 and the Tamil Nadu Value Added Tax Rules. The administration of the department is vested with the Principal Secretary and the Commissioner of Commercial Taxes. The State has been divided into 40 zones, comprising 323 assessment circles including six Fast Track Assessment Circles at Chennai and Coimbatore. The assessment, levy and collection of tax are done by the assessing authorities in charge of the assessment circles. The monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration department.

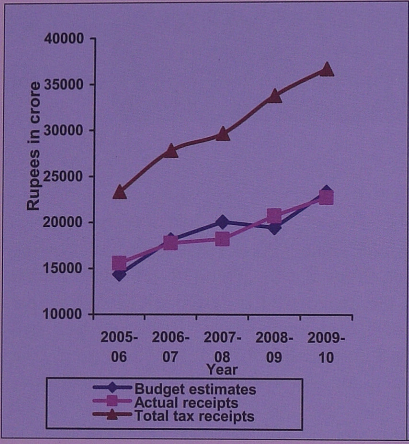
2.2 Trend of receipts

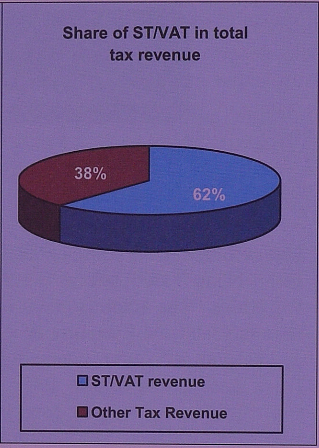
Actual receipts from sales tax/value added tax during the last five years from 2005-06 to 2009-10 along with the total tax receipts during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts *vis-à-vis* total tax receipts
2005-06	14,360.71	15,554.69	(+) 1,193.98	(+) 8.31	23,326.03	67
2006-07	18,089.66	17,727.16	(-) 362.50	(-) 2.00	27,771.15	64
2007-08	20,030.84	18,156.36	(-) 1,874.48	(-) 9.36	29,619.10	61
2008-09	19,417.74	20,674.70	(+) 1,256.96	(+) 6.47	33,684.37	61
2009-10	23,242.53	22,661.52	(-) 581.01	(-) 2.50	36,546.66	62

A line graph of budget estimates, actual receipts and total receipts and a pie chart depicting the position of VAT receipts in the total tax receipts are given in the following page:





2.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 10,990.06 crore, of which ₹ 5,354.90 crore was outstanding for more than five years as mentioned below:

(₹ in crore)

Head of revenue	Amount outstanding as on 31 March 2010	Amount outstanding for more than five years as on 31 March 2010	Remarks
Sales Tax/ Value Added Tax	10,990.06	5,354.90	Out of ₹ 10,990.06 crore, demands amounting to ₹ 1,163.31 crore were covered under the Revenue Recovery Act. Demands amounting to ₹ 2,010.86 crore were stayed by the Government/High Court and other judicial/appellate fora and an amount of ₹ 314.71 crore was held up due to rectification/review applications. ₹ 49.54 crore could not be recovered on account of assessees becoming insolvent. A sum of ₹ 737.13 crore was likely to be written off/waived. An amount of ₹ 2,457.62 crore was covered under the deferral scheme. ₹ 632.84 crore was proposed to be eliminated in respect of appeal cases which are referred back for fresh disposal. ₹ 480.32 crore was covered under civil suits and BIFR and a sum of ₹ 294.79 crore was under various stages of recovery. ₹ 2,848.94 crore had since been collected.

The above table reveals that the amount of uncollected revenue as on 31 March 2010 was nearly one half of the sales tax/VAT revenue realised by the department during the year 2009-10. The table also indicates that substantial amounts were covered under the Revenue Recovery Act and on account of stays granted by the judicial/appellate fora. Further, the amount of arrears pending for more than five years as on 31 March 2010 had risen sharply to ₹ 5,354.90 crore as against the amount of ₹ 3,443.53 crore pending as on 31 March 2009.

We recommend that special efforts be made to vacate the stay orders and to speed up the cases involved in litigation. We further recommend that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the departmental officers *vis-à-vis* the set targets.

2.4 Assessee profile

The number of registered dealers in 2009-10 was 5,59,184 comprising 5,58,037 VAT dealers and 1,147 non-VAT dealers. Of the above, the large tax payers[3] were 140 and the rest were classified as small tax payers. The number of dealers required to file returns during the year were 2,32,504 VAT dealers and 1,147 non-VAT dealers. The number of returns due from the dealers was 26,37,041 against which 23,99,360 returns were received. 2,30,757 and 6,924 returns were not received from VAT and non-VAT dealers respectively. These returns were due from 55,908 dealers.

The department stated that notices were issued to non-filers for cancellation of registration certificates. But the details of the dealers whose registration certificates were cancelled for reason of non-filing of returns were not made available to us.

2.5 Collection of sales tax/VAT per assessee

The details of amount of sales tax/value added tax realised during the year, the number of assessees and the collection of sales tax/value added tax per assessee for the period from 2005-06 to 2009-10 are given in the following table:

Year	No. of assessees	Revenue (₹ in crore)	Revenue per assessee (₹ in lakh)
2005-06	1,82,270	15,554.69	8.53
2006-07	1,98,211	17,727.16	8.94
2007-08	2,24,074	18,156.36	8.10
2008-09	2,45,052	20,674.70	8.44
2009-10	2,70,159	22,661.52	8.39

[3] Large tax payers – Dealers whose taxable turnover for a year exceeds ₹ 200 crore.

2.6 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2009-10, due for assessment during the year, disposed during the year and pending at the end of the year 2009-10 along with the figures for the preceding four years as furnished by the Commercial Taxes Department are mentioned below:

Year	Opening balance	Cases which became due for assess-ment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposal (Col.5 to 4)
1	2	3	4	5	6	7
2005-06	54,292	1,77,496	2,31,788	1,62,872	68,916	70
2006-07	68,916	1,82,457	2,51,373	1,51,825	99,548	60
2007-08	99,548	1,78,414	2,77,962	76,814	2,01,148	28
VAT	---	1,44,759	1,44,759	22,108	1,22,651	15
2008-09	2,01,148	---	2,01,148	55,381	1,45,767	28
VAT	1,22,651	1,85,270	3,07,921	95,047	2,12,874	31
2009-10	1,45,767	---	1,45,767	84,600	61,167	58
VAT	2,12,874	2,21,166	4,34,040	1,14,638	3,19,402	26

The low rate of disposal in the three years since the introduction of VAT has increased the pendency of assessments. Such a poor pace of finalisation of assessments is likely to affect the collection of tax adversely.

The department attributed the low percentage of disposal to the vacancy in the posts of assessing authorities. The department further stated that the time required by the assessing authorities to accustom themselves to the computerised environment and to the new provisions of the TNVAT Act also resulted in the very low percentage of disposal.

We recommend that the Government may, by appropriate instructions, ensure completion of assessments expeditiously.

2.7 Cost of collection

The gross collection in respect of sales tax/VAT, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2007-08, 2008-09 and 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collection for 2008-09 are as follows:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2008-09
Sales tax/ VAT	2007-08	18,156.36	139.24	0.77	
	2008-09	20,674.70	187.27	0.91	0.88
	2009-10	22,661.52	205.10	0.91	

The above table indicates that the percentage of expenditure on collection was more than the all India average for the year 2008-09.

The Government needs to take appropriate measures to bring down the cost of collection.

2.8 Analysis of collection

The break-up of total collection at the pre-assessment stage and after regular assessment of taxes on sales under the Tamil Nadu Value Added Tax Act for the years 2008-09 and 2009-10 as furnished by the department are given below:

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of col. 2 to 7
1	2	3	4	5	6	7	8
2008-09	22,140.73	369.17	55.33	716.02	21,813.29	20,674.70	107
2009-10 Sales Tax/ VAT	3,169.82 18,803.53	313.50 783.48	1,871.32	122.81	24,818.84	22,661.52	97

The collection of revenue at pre-assessment stage to the net collection was 107 *per cent* in 2008-09 and 97 *per cent* during 2009-10.

2.9 Impact of Audit Reports

Revenue impact

During the last five years, we had pointed out through our Audit Reports non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation, etc., with revenue implication of ₹ 261.44 crore in 55 paragraphs. Of these, the department/Government had accepted audit observations involving ₹ 23.54 crore and had since recovered ₹ 3.91 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2004-05	9	45.12	2.33	0.79
2005-06	10	28.49	1.39	0.32
2006-07	10	64.54	12.16	0.69
2007-08	14	50.77	4.73	1.50
2008-09	12	72.52	2.93	0.61
Total	**55**	**261.44**	**23.54**	**3.91**

The Government may institute a mechanism to monitor the position of recoveries pointed out in the Audit Reports and take necessary steps for early collection.

2.10 Working of internal audit wing

The internal audit is organised in each CT district and consists of an Assistant Commissioner, a Commercial Tax Officer and four other supporting staff. The internal audit is predominantly conducted on a quarterly basis. The assessments finalised and the refunds made in the preceding quarter were to be taken up for audit in the succeeding quarter. The details of the number of offices due for internal audit and those completed are given below:

Year	Number of offices due	Number of offices completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
Upto 2005-06	417	182	235	44
2006-07	197	48	149	24
2007-08	252	65	187	26
2008-09	252	55	197	22
2009-10	254	44	210	17

The department attributed the reasons for non-conduct of internal audit to vacancy in staff strength and stated that special audit for those who were retiring and in respect of cases which would become time barred were only being conducted by engaging other assessing officers.

2.11 Results of audit

We test checked the records of 235 units and found underassessment of tax and other irregularities amounting to ₹ 298.69 crore in 1,101 cases, which broadly fall under the following categories.

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
	A – Sales Tax/Value Added Tax		
1	**Computerisation of the check posts in Commercial Taxes department (IT review)**	1	77.26
2	Deferral/waiver of sales tax	1	2.88
3	Incorrect exemption from levy of tax	200	144.00
4	Application of incorrect rate of tax	270	45.95
5	Incorrect computation of taxable turnover	108	3.98
6	Non/short levy of tax	44	3.10
7	Non-levy of penalty/interest	239	9.49
8	Incorrect allowance of input tax credit	138	5.53
9	Others	98	5.60
Sub-Total		**1,099**	**297.79**
	B – Luxury Tax		
1	Short levy of luxury tax	1	0.80
2	Non-levy of penalty	1	0.10
Sub-Total		**2**	**0.90**
Grand Total		**1,101**	**298.69**

During the course of the year, the department accepted under assessments and other deficiencies of ₹ 11.36 crore in 739 cases, of which 355 cases involving ₹ 6.41 crore were pointed out in audit during the year 2009-10 and the rest in earlier years. An amount of ₹ 8.54 crore was realised during the year 2009-10.

After issue of draft paragraphs, the department recovered ₹ 4.97 crore during the year.

A review on "Computerisation of the check posts in Commercial Taxes Department" with financial impact of ₹ 77.26 crore and a few illustrative cases involving ₹ 52.76 crore are mentioned in the following paragraphs:

A – SALES TAX/VALUE ADDED TAX

2.12 Computerisation of the check posts in Commercial Taxes Department

Highlights

❖ Large scale omission to collect goods movement details at the check posts resulted in ineffective monitoring of taxes due to the State.

(Paragraph 2.12.7.1)

❖ No action was taken to levy tax amounting to ₹ 14.99 crore on the value of goods and a penalty of ₹ 22.49 crore thereon in respect of transit passes issued during 2007-08 to 2009-10 by selected six check posts, which were not surrendered.

(Paragraph 2.12.7.2)

❖ Absence of mandatory provisions for Fast Track Clearance System resulted in poor patronage of the scheme and non-achievement of the benefits envisaged.

(Paragraph 2.12.7.3)

❖ Lack of input control on vital information like Tax payers Identification Number and commodity code led to incorrect capturing of vehicle movement details.

(Paragraph 2.12.8.3)

❖ Failure to utilise the available information resulted in movement of goods by non-filers, unregistered, cancelled and bogus dealers across the check posts involving tax and penalty of ₹ 39.78 crore.

(Paragraph 2.12.9)

2.12.1 Introduction

The Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) empowered the Government to set up check posts or the erection of barriers or both at notified places in the State with a view to prevent or check evasion of tax. The TNGST Act also empowered the officers-in-charge of the check posts to stop any goods vehicle at the check post, examine the contents in the goods vehicle and inspect all documents relating to the goods carried which were in the possession of the driver or other person in charge for the purpose of ascertaining whether there had been any sale or purchase of the goods carried and whether the sale or purchase of the goods carried had, for the purpose of the payment of tax under the Act, been properly accounted for and supported by relevant documents. Similar provisions exist in the Tamil Nadu Value Added Tax Act, 2006.

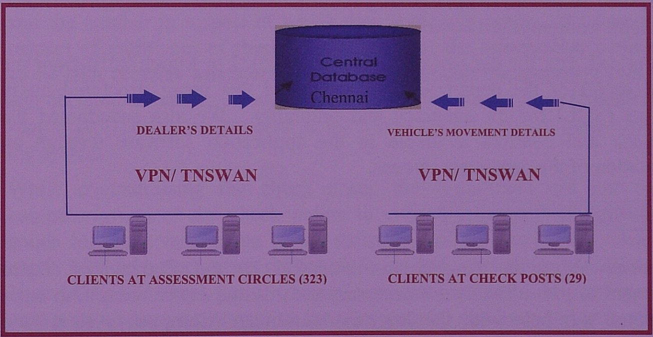
There are 29 border check posts in the State out of which 16 are classified as major check posts and 13 as minor check posts. In addition, ten check points are also established at Rail Heads and Container Terminals to watch the movement of goods into the State through routes other than by road.

2.12.2 Organisational setup

The Commercial Taxes Department functions under the control of the Commissioner of Commercial Taxes (CCT). It comprises three wings, *viz.* Assessment, Enforcement and Appellate Wings. The Enforcement wing consists of seven divisions headed by Joint Commissioners and assisted by Assistant Commissioners and Commercial Tax Officers. The check posts are under the control of Assistant Commissioners/Assistant Commercial Tax Officers. The check posts function round the clock. The System Assistants in the check posts are entrusted with the work of data entry of documents collected at the check posts.

2.12.3 Computerisation of the check posts

The Commercial Taxes Department had implemented the "Commodity Movement Monitoring Module" (C3M) in all the check posts in December 2003 for capturing the details of vehicles moving through the check posts. The development of this module which consists of nine sub modules[4] along with other modules of the department was awarded to M/s. Pallavan Transport Consultancy Services at a cost of ₹ 0.57 crore. As part of e-governance initiatives, the department extended the objectives of computerisation to check posts to include "on-line verification of check post records with tax collection details, identification of black listed transport and transporters and identification of persistent defaulters". The existing check posts were modernised in November 2007 by providing hardware for ₹ 0.87 crore. The check posts were initially connected through BSNL leased lines and migrated to Tamil Nadu State Wide Area Network connectivity from August 2009.



Architecture: Oracle as Back end and Visual Basic as Front end.

Connectivity: Check post data are uploaded on daily basis to Central Server located at Central Computer Centre, Chennai.

4 Movement details, Physical verification details, Offence booking without Goods detention, Goods detention details, Collection details, Goods release, Transit Pass Issue and Surrender, Transit Pass surrender (Online) and Bill Traders.

Apart from the C3M software, the department had developed an intranet website to generate various reports such as vehicle movement, conduct of physical verification, goods detention, goods release, dealer-wise cross verification of monthly returns data etc.

A website was also created by National Informatics Centre on behalf of the department at a cost of ₹ 7.20 lakh, with URL id www.tnvat.gov.in for providing e-services for VAT dealers and an exclusive service for check posts as "check post fast track clearance system" for providing better e-services to the mercantile public. The system also aimed at reducing traffic congestion at check posts and to capture the details of the goods /transporters moved across the check posts.

2.12.4 Audit objectives

We conducted the review to examine and ascertain -

- the existence of proper documentation for system design, user requirement specification and system requirement specification;
- the existence of proper input validation, process and security controls to ensure the authenticity, completeness and accuracy of the data; and
- identification of black listed transporters and persistent defaulters to prevent evasion of tax.

2.12.5 Scope and methodology of audit

We conducted the review during April 2010 and May 2010. We scrutinized the project files at the Secretariat and at the office of the CCT and visited 13 check posts[5] to ascertain the working conditions and functioning of the check posts in the computerised environment.

We obtained data for the period from January 2007 to March 2010 from the central server of the department and examined this using structured query language (SQL) for its adequacy and reliability. We also ascertained the provisions and controls available in the application software through an examination of the data entry screens.

2.12.6 Acknowledgment

We acknowledge the co-operation extended by the Commercial Taxes department in providing us the necessary records and information. An entry conference was held with the Joint Commissioner (Computer systems and Enforcement) in April 2010, in which we explained the audit objectives, scope and methodology. The draft review was forwarded to the department and the Government in July 2010. The exit conference was held with the Secretary to the Government, Commercial Taxes and Registration department on 3 September 2010. The views expressed at the exit conference and at other times have been taken into consideration and incorporated in the review.

[5] Gopalapuram, Hosur (Incoming & Outgoing), Kandamangalam, K.G. Chavady (Incoming & Outgoing), Kottakuppam, Meenakshipuram, Pattanur, Pennaiyar bridge, Pitchanur and Puzhal (Incoming & Outgoing)

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2.12.7 Audit findings

2.12.7.1 Collection of documents and capturing of the data in the check post movement module

According to Rule 15(18)(b) of TNVAT Rules 2007, a copy of the bill of sale or delivery note in respect of the goods carried in the goods vehicle shall be submitted by the transporter to the check post officer at the first check post for goods entering the State and at the last check post for goods going out of the State.

We gathered information regarding the number of vehicles that moved through the check posts in the State from the CT department's annual compilation of "Statistics at a glance" and compared the same with the number of data entries made in the C3M software. Such a comparison revealed that only 40 *per cent* of vehicles were entered in the system for the years 2007-08 and 2008-09 as indicated below:

Year	Number of vehicles moved[6]	Number of vehicles for which details entered in C3M	Percentage of vehicles entered in C3M
2007-08	27,41,000	10,67,528	38.94
2008-09	27,61,000	11,33,380	41.04

We obtained from the 13 check posts which were test checked, the details regarding the total number of vehicles that passed through these check posts and the number in respect of which data entry was made. We found that in respect of eight[7] out of these 13 check posts, the information pertaining to 15.54 lakh vehicles which entered the State through the incoming check posts and declared as bound for other States during the period from January 2007 to March 2010, being 36 *per cent* of the total vehicles had not been captured in the system.

While computerising the check posts, the department did not envisage computerisation of the check points to collect the details of movement of goods for cross verification of tax sufferance in the State. We noticed that nearly 1.88 lakh documents collected during the years from 2007-08 to 2009-10 at CONCOR check point, Chennai were not captured. As check points are vital points where movement of the consignment can be monitored, capturing of these details would provide valuable inputs regarding revenue collection and business trends. This advantage is now lost due to non-capturing of these details.

During the exit conference, the department attributed the reasons for the very low percentage of capture of vehicle movements at the check posts to shortage of man power. Further, details pertaining to exempted goods were also not

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6 Number of vehicles moved during 2009-10 not available.

7 Gopalapuram, Hosur (Incoming & Outgoing), K.G. Chavady (Incoming & Outgoing), Meenakshipuram, Pattanur and Pitchanur

captured. The department admitted that at present the CONCOR check point was not computerised and the verification was being done by sending the documents collected therein to the respective assessment circles.

The shortage of manpower cited by the department could not be accepted as the department has been following the practice of manual recording of details in the registers and secondary data capture in the software, though the check posts were computerised as early as December 2003. Thus, the man power requirement has increased because of ineffective utilisation of the software as both manual and computerised data capturing is being done.

2.12.7.2 Levy of tax and penalty on non-surrendering of transit passes

The TNVAT Act provides that the person in charge of a goods vehicle carrying goods, mentioned in the Sixth Schedule[8], from any place outside the State and bound for any other place outside the State shall obtain a transit pass from the check post officer of the first check post after entry into the State and deliver the same to the check post officer of the last check post before exit out of the State. In case of failure to deliver the transit pass, the Act provides for levy of tax and penalty as if the goods were sold within the State.

The computerised system has provision to capture only the details of transit passes issued at the check posts and verification of surrender of passes from the central server. No provision has been made in the system to alert the 'Out' check post regarding the time of surrender of the passes and movement of the vehicles in respect of transit passes issued. Further, as data was not being entered on a real time basis and data capturing was also not complete in all the check posts, the department was still continuing with manual procedures for monitoring the issue and surrender of transit passes, thus vitiating the efficacy of the system.

During test check of the manual records, we noticed that 803 transit passes issued by six check posts involving movement of goods during the period from April 2007 to March 2010 had not been surrendered at the relevant 'Out' check post to ensure that the goods were moved out of the State. These transactions should have been treated as local sales and action should have been taken to levy tax and penalty of ₹ 14.99 crore and ₹ 22.49 crore respectively on the value of the goods covered under these transit passes. However this was not done.

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[8] (i) Diesel engines, (ii) marbles, (iii) raw rubber, (iv) refrigerator, air conditioner, air cooler and water cooler, (v) washing machine, (vi) alcoholic liquors, (vii) kerosene and (viii) all types of plastic granules and plastic raw materials

(₹ in crore)

Sl. No.	Name of the check post	Year	No. of cases	Amount of tax	Amount of penalty	Total tax and penalty
1	Kandamangalam	2008-09 2009-10	456	9.10	13.65	22.75
2	Pennaiyar bridge	2008-09 2009-10	81	0.80	1.20	2.00
3	Pattanur	2009-10	92	2.92	4.38	7.30
4	Puzhal	2007-08 2008-09	109	0.52	0.78	1.30
5	KG Chavady	2009-10	12	0.19	0.29	0.48
6	Hosur (Incoming)	2008-09 2009-10	53	1.46	2.19	3.65
	Total		**803**	**14.99**	**22.49**	**37.48**

We also noticed that a transporter was issued transit passes on nine occasions and another transporter on two occasions at Kandamangalam check post between December 2008 and March 2009 and none of the transit passes were surrendered by the transporters at the intended 'Out' check posts. The check post officer not only failed to initiate action to black list the transporters on their failure to surrender the transit pass issued to them in the first instance itself but continued to issue transit passes thereafter.

The failure of the check post officers to ensure the surrender of the transit passes at the 'Out' check posts and to initiate action in default thereof exposes the inadequacies as also the ineffective monitoring by the controlling officers in regard to issue and surrender of transit passes.

During test check of the MIS report generated by the software, we noticed that the details of transit passes issued by the assessing officers to the dealers in respect of consignment or transfer of the goods mentioned in the Sixth Schedule to outside the State are not being captured to monitor their surrender at the last check post of the State to ensure that the goods were actually moved out of the State.

During the exit conference, the Government accepted the audit observation and stated that the concerned Joint Commissioners have been instructed to verify the cases pointed out in the review. The Principal Secretary and Commissioner of Commercial Taxes concurred with the audit observation that the present system does not have provision to alert the 'Out' check post regarding the time of surrender and the movement of the vehicles in respect of transit passes issued and assured that this would be taken into consideration at the time of installation of the web based software.

2.12.7.3 Business process re-engineering

Business process re-engineering is a management practice for redesigning the way work is done to better support the organisation's mission and reduce costs.

Web based software

The department planned to re-engineer the business processes by switching over to a web based software from the existing off-line package as part of an e-governance initiative. In this connection, a new project was entrusted to M/s. ELCOT and an amount of ₹ 45 lakh was paid during April 2007. However, the department neither prepared nor obtained from the vendor, documentation with regard to User requirement specifications, System requirement specifications, Systems Manual etc. The software had not been made operational till the date of audit (May 2010).

During the exit conference, the department stated that a web based module for the territorial wing and the check posts had since been developed and the same is proposed to be installed.

Fast Track clearance system

The Government, in order to provide better e-services for the mercantile public, introduced a new service named Fast Track Clearance System (FTCS) in July 2008. The dealers opting for FTCS were required to register themselves in the department website and to declare the details of the goods proposed to be transported along with the details of the vehicle, bill number, etc. well in advance of the day of actual transport of goods. The printed acknowledgment generated through the website was required to be carried by the transporter and produced to the check post officer.

The service was intended to reduce traffic congestion at the check posts and to save the time spent at the check post. Further, the system was meant to enable easy capture of the details of the goods moved through the check post. We observed in audit, that no dealer had opted for clearance through this system (May 2010). No efforts were made by the department to make the system mandatory at least in respect of huge tax payers, even after the expiry of two years from the date of introduction. As a result of the poor patronage of the system, the benefits envisaged in the scheme were not achieved.

During the exit conference, the Government stated that efforts are being made to bring huge tax payers into the system by mandating use of FTCS.

2.12.8 Software issues

2.12.8.1 Documentation

Documentation of the software is essential for analysing and effectively measuring the requirements of all the functionalities of the department, ensuring proper controls and procedures to reduce the risk of errors and generating the required reports. The documentation should also cover vital

areas such as change management policy, business continuity plan and disaster management by the department.

We found that the department maintained documents such as User Manual, User Privileges and Data Dictionary only. However, documents like User Requirement Specification (URS), System Requirement Specification (SRS), System Design Document (SDD) etc., were not available with the department as a result of which we were unable to analyse the various stages of system development.

In the absence of such documentation, we could not ascertain whether the user needs were properly assessed, the system requirements and also whether the computerisation of the check points was envisaged at the development stage.

2.12.8.2 Implementation of the C3M software by the check post officials

The department did not finalise any documented plan of action to phase out the manual system and change over to the computerised system. We observed that though the software was developed in 2003, the system is running parallel to the manual system for almost seven years. The department has not utilised all the sub modules in the check posts. Therefore, the objectives of discontinuance of manual registers and switching over to the complete computerised environment have not been achieved. The sub module for Transit Pass surrender (Online) was not implemented by the department in the absence of inter connectivity among the check posts. The status of utilisation of some of the other sub modules is given below:

Name of the sub modules	Status of implementation
Movement of goods vehicles into and from the State	No parameters have been fixed for uploading the details of movement of goods vehicles in the system. We noticed that the details of invoices with individual values exceeding ₹ 50,000 alone were uploaded in Puzhal (out) check post while in Pennaiyar bridge check post, invoices valuing ₹ 10,000 and above were uploaded. Back log of data entry ranging from one month to three months existed in Puzhal (out) and KG Chavady (out) check posts.
Movement of goods vehicles transiting through the State	We noticed that data capturing was not complete in the check posts in respect of Sixth Schedule goods involving transit passes, a comment on which has been made in Para 2.12.7.2. We also noticed that the information regarding the movement of goods vehicles carrying other than the Sixth Schedule goods were not captured in any of the 13 check posts visited during the review.
Physical verification details	The details of the physical verification of vehicles captured in the module were not complete. In three[9] out of 13 check posts, the data captured was less than 12 *per cent* of the physically verified vehicles.
Offence booking	The details of the offence booking of vehicles captured in the module were not complete. In four[10] out of 13 check posts, the data captured was less than 22 *per cent* of the offences booked.
Collection details	Complete details of compounding fee collection and advance tax collection were not captured. It was seen that the details captured ranged from 34 to 87 *per cent* in six out of 13 check posts.

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[9] Gopalapuram, K.G. Chavady (Incoming & Outgoing)

[10] K.G. Chavady (Incoming), Kottakuppam, Pennaiyar bridge and Pitchanur

As the capturing of the data in the system was not complete, the intranet website which generates various MIS reports could not be of effective use to the department.

The above findings indicate the absence of proper monitoring of the development and implementation of the application developed to achieve the department's objectives and the impact thereon.

2.12.8.3 Input controls and validation checks

The software developed while the erstwhile Tamil Nadu General Sales Tax Act (TNGST Act) was in force has not been updated to suit the requirements of the new VAT system. The software has not been designed to ensure the uniqueness of Taxpayers Identification Number (TIN) while capturing the name and address of the consignor and consignee.

We analysed the data of C3M software and compared this with data relating to registration of dealers available with the department. This showed that -

- The system accepted TIN, those were not related to the respective dealers in respect of 71 dealers involving transportation of goods valued at ₹ 260.61 crore across various check posts.
- The system also accepted TIN which were invalid and not available in the department's VAT data base, in respect of 10,621 dealers who transported goods worth ₹ 462.88 crore in 17,417 cases during the period from January 2007 to March 2010.
- Though all the existing dealers under the TNGST Act were allotted new TIN codes, 1,375 dealers registered in Tamil Nadu continued to transport goods valued at ₹ 210.19 crore using their TNGST number instead of TIN.
- The software continued to accept the commodity codes based on the erstwhile TNGST Act.

Thus, the input controls in the software were not adequate to avoid such errors as well as to validate the data entered. We undertook test check in two assessment circles[11], which revealed the existence of data entry errors while entering the details in the check post module and also confirmed the fact of data entry of invalid TIN. The software has not been designed with any validation control to reject incorrect inputs by correlating the information available with the department to ensure the correctness of the details entered. As the rate of tax is based on the commodity code, its correctness could not be verified at the check posts through Movement details module. This resulted in non-mapping of new business rules of TNVAT based commodity code and continued wrong codification based on pre-existent business rules in the module.

During the exit conference, the Government accepted the audit observation regarding the acceptance of invalid TIN by the check post software in respect of other State dealers whose TIN was not known but stated that the software had been so designed not to accept invalid TIN, if the consignor or consignee

[11] Ratan Bazaar and Esplanade II

were from Tamil Nadu. Audit analysis of the data, however, revealed that the software had accepted invalid TIN in respect of dealers registered in Tamil Nadu also.

2.12.8.4 Logical access controls

In the C3M software, there are two to three users at each check post for entering the details. It does not have provision of authenticating the correctness of the information fed into the software by a supervisory level. Moreover, in all the modules, the user has a privilege for modifying the critical records like bill details, compounding fee collected, advance tax collected, etc. The audit trail with regard to the modified information was not available in the data base. Further, the user name and password were same for all the users across the State. Considering the criticality of the information captured, a separate user login may be provided for each user.

Logical access controls protect an IT system from unauthorised access. We observed that the department did not have a documented password policy and no written instructions were issued regarding regular change of passwords. Password control procedures like assigning alpha numeric passwords, minimum number of characters for password, restriction on number of unsuccessful login attempts and forced periodic password changes were not incorporated in the application. There was also no evidence of review of system logs to detect attempts of unauthorised access or unexpected events. In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption.

The Government replied in September 2010 that the software has provision for modification of entries where any error was noticed in entering the data. The Government also stated that the supervisory password would be made available to the head of the office in the new software being developed and proposed to be rolled out with the work flow model.

2.12.9 Effective usage of the available information

The department through VAT computerisation possesses information regarding the dealers, their status of registration, status of filing of returns, etc. An accepted business principle is that computerisation should result in additional benefits to the department. The aforesaid vital information should be used effectively while verifying the genuineness of the dealers who transport various commodities through check posts as Section 67 of the TNVAT Act 2006 requires the check post officer to ensure these criteria. The check posts have been provided with computer system with internet facility. The officers in charge of the check posts were required to ensure the correctness of the information provided in the bill, by browsing the TINXSYS website using the internet before allowing the movement of the goods vehicle across the check posts.

We undertook a cross verification of the details of movement of goods available in the check post database with that of the VAT database of dealers, on the basis of TIN entered in the check post software. Such verification indicated the following:

- Goods valued at ₹ 363.58 crore were transported either into or out of the State between January 2007 and March 2010 by 1,614 dealers registered in Tamil Nadu, whose registration certificates were cancelled prior to the date of transportation of the goods. The tax involved in respect of these transactions worked out to ₹ 13.52 crore, besides penalty of ₹ 20.28 crore.
- Goods valued at ₹ 149.58 crore were transported either into or out of the State in 1,227 cases though the TIN were found not to have been assigned to any of the States. The tax involved in respect of these transactions considering the minimum tax rate of four *per cent* worked out to ₹ 5.98 crore.
- 1,053 dealers in 12,001 cases who had not filed returns for a preceding period of six months (April 2008 to September 2008) transported goods worth ₹ 201.12 crore through various check posts during October 2008.

The officers in charge of the check posts, before allowing the movement of the goods, had failed to carry out this basic exercise of cross verification to ensure the genuineness of the transaction. Such cross verification had also not been undertaken at the central computer cell where all the relevant information was available. No notices have been issued in this regard.

The Government replied in September 2010 that the enforcement Joint Commissioners were instructed to verify all the cases pointed out in the review. We await the report of verification in all the cases (December 2010).

2.12.10 Conclusion

The objective of on-line verification of check posts records with tax collection details and other objectives could not be successfully implemented as the data capturing in the check posts was partial, records created from the documents submitted at check posts by various dealers were found to be with the erstwhile TNGST numbers, TIN of cancelled dealers, TIN of bogus Tamil Nadu registered dealers and TIN of the dealers who had not filed the returns for more than six months. Any attempt to verify the check posts records with the assessment records would prove to be futile as they were not valid VAT dealers. Moreover, capture of data in the software was incomplete as details of only 40 *per cent* of the vehicles crossing the check posts were captured in the system. The deficiency in software design with no validation checks of input controls facilitated movement of goods across the borders without these transactions being assessed to tax in the hands of real VAT dealers of the State.

2.12.11 Recommendations

The Government may consider

- early implementation of the web based software to achieve their objectives of on-line verification of check posts records with tax collection details, identification of black listed transport, transporters and persistent defaulters;
- capturing all the available information in the check post movement module to monitor the movement of goods across the check posts;
- utilising the available information to ascertain the genuineness of the dealers transporting goods through check posts so as to arrest the tax evasion;
- modifying the existing software to have proper input, validation and logical access controls to ensure completeness, correctness and security of the information captured and utilisation thereof for generation of requisite reports; and
- introducing mandatory provisions in respect of Fast Track Clearance System to encourage patronage and realisation of the benefits envisaged.

2.13 Other audit observations

We scrutinised the records in the offices of the Commercial taxes department and noticed several cases of non-observance of the provisions of the Acts/Rules, resulting in application of incorrect rates of tax, incorrect grant of exemption/concessional rate of tax, non/short levy of interest/penalty and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by us. Although such omissions are pointed out every year, the irregularities persist and remain undetected till the next audit is conducted. There is a need for the Government to consider directing the department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.

2.14 Non-compliance of the provisions of the Acts/Rules

The provisions of the Tamil Nadu General Sales Tax (TNGST) Act, the Tamil Nadu Value Added Tax (TNVAT) Act and the Rules made thereunder require:

(i) furnishing of monthly returns within the prescribed period and payment of tax on sale or purchase of goods at the rates prescribed in the Schedules to the Act; and

(ii) payment of the admitted tax along with the returns and in case of default, the payment of penalty/interest at the rates prescribed in the Act.

We noticed non-compliance of the provisions of the Act/Rules in some cases involving non/short realisation of ₹51.86 crore. These cases are mentioned in paragraphs 2.14.1 to 2.14.12.

2.14.1 Deferral of sales tax

The Scheme of deferral was implemented by the Industries Department through the State Industries Promotion Corporation of Tamilnadu (SIPCOT) in the case of medium and large scale industries, through Director of Industries and Commerce in respect of Small Scale Industries and through Tamilnadu Industrial Investment Corporation Ltd. (TIIC), if the industries were financed by them. The eligibility certificates (ECs) were issued by the respective agencies. On receipt of the ECs, the authorised officers of the Commercial Taxes department were required to enter into an agreement with the beneficiaries (industrial units). The assessing authorities assess the industrial units and monitor the availment and repayment of the deferred taxes within the agreed repayment period.

2.14.1.1 Excess availing of deferral

> The duty to monitor availment of deferral by eligible units in accordance with the conditions stipulated in the EC rests on the officers of the CT department. The assessing authorities were required to maintain a requisite register to ensure the availment of deferral by the eligible units within the ceiling amount fixed in the EC and also to watch the recovery of the entire amount of deferral. Under the TNGST Act, on any amount remaining unpaid after the due date, the dealer shall pay, in addition to the sum due, interest for the entire period of default.

During test check of the records in Ambattur and Hosur (North) assessment circles, we noticed that two dealers had availed deferral of ₹ 10.66 crore as against the ceiling amount of ₹ 10.51 crore fixed by the implementing agencies in the EC issued to them. This resulted in excess availing of deferral of ₹ 14.84 lakh. The excess amount of deferral was required to be recovered from the assessees along with interest of ₹ 22.24 lakh (calculated upto 31 December 2009).

After we pointed this out, the assessing authority, Ambattur assessment circle, issued notice to the assessee in August 2010 demanding payment of the excess amount of deferral of ₹ 6.43 lakh. We await the report on the levy of interest and recovery of the excess amount of deferral in the other case (December 2010).

We reported the matter to the Government in June 2010. We await the reply of the Government (December 2010).

2.14.1.2 Rescheduling the period of deferral

> The Government had issued instructions in May 1991 that the period of deferral/ waiver may be rescheduled suitably by the implementing agencies concerned at the request of the assessees subject to the condition that the amount of deferral/ waiver during such extended period be restricted to the amount of tax paid by the assessees. Under the TNGST Act, on any amount remaining unpaid after the due date, the dealer shall pay, in addition to the sum due, interest for the entire period of default.

During test check of the records in Karur (North) assessment circle, we noticed that deferral originally sanctioned for the period from 1 May 1998 to 30 April 2003 was subsequently rescheduled by SIPCOT to cover the period from 1 May 1999 to 30 April 2004. The records revealed that the dealer had paid tax of ₹ 18.40 lakh during the period from 1 May 1998 to 30 April 1999. We, however, noticed from the ledger, deferral register and the assessment order for the year 2003-04 that the dealer was allowed deferral of ₹ 61.04 lakh for the rescheduled period, instead of restricting the same to ₹ 18.40 lakh. This resulted in affording of excess deferral of ₹ 42.64 lakh.

This has to be recovered along with interest which works out to ₹ 58.35 lakh (calculated upto 31 December 2009).

After we pointed this out, the assessing authority stated that the matter would be examined and detailed reply would be sent. We await the reply of the department (December 2010).

We reported the matter to the Government in June 2010. We await the reply of the Government (December 2010).

2.14.1.3 Non-levy of interest for belated payment of deferred taxes

The deed of agreement stipulates that in case of default in repayment of deferred sales tax, interest shall be levied at the rate of 24 *per cent* per annum for such belated payment.

During scrutiny of the deferral registers and ledger records in eight assessment circles[12], we noticed that interest of ₹ 1.50 crore had not been levied by the assessing authorities for belated payment of deferred sales tax by 10 dealers.

After we pointed this out, the assessing authority, Sriperumbudur assessment circle replied that the dealer had availed deferral from September 1995 to March 2003 for a sum of ₹ 7.16 lakh and the registration certificate was cancelled from 1 April 2003 for non-renewal of registration. The amount of ₹ 7.16 lakh was collected on 12 October 2006 and hence interest could be levied only for the period from 1 April 2003 to 12 October 2006. The reply is not tenable as the assessee had violated the conditions of deferral and hence interest is leviable from the first year of availing of deferral by the assessee. The assessing authorities in the remaining cases had agreed to examine the matter. We await further report (December 2010).

We reported the matter to the Government in June 2010. We await the reply of the Government (December 2010).

2.14.2 Incorrect grant of waiver and refund of central sales tax

The Government by an order issued in April 2005 provided for refund of tax of nine *per cent* on inter-state sales of hosiery goods not covered by 'C' Form declarations as a specific industrial incentive so that the effective rate will be one *per cent*. The Government by an order issued in July 2006 also provided for waiver of tax of ninety *per cent* of the tax liability on inter-state sale of hosiery goods not covered by 'C' Form declarations for the period from 13 May 2002 to 3 April 2005.

Under the TNGST Act, hosiery goods were taxable at the rate of four *per cent* at the point of first sale with effect from 27 March 2002. By a notification issued in August 1996 under Section 8(5) of the CST Act, the rate of tax on inter-state sale of hosiery goods with or without 'C' Form

12 Avinashi, Cuddalore (Taluk), Hosur (North) & (South), Sriperumbudur, Thallakulam, Tuticorin III and Villivakkam

declarations was reduced to one *per cent*. The CST Act was amended with effect from 13 May 2002 to provide for mandatory filing of 'C' Form declarations to avail concessional rate of tax on inter-state sale of goods under the CST Act. Consequently, inter-state sale of hosiery goods not covered by 'C' Form declarations was taxable at the rate of 10 *per cent*.

During the scrutiny of the CST assessments of dealers in hosiery goods relating to eight assessment circles[13], we noticed that on the basis of the orders of the Government, in 1,371 cases, waiver of 90 *per cent* of the tax liability on the inter-state sale of hosiery goods not covered by 'C' Form declarations amounting to ₹ 31.81 crore was granted during the period from 2006-07 to 2008-09 (upto June 2009). Similarly, in 1,831 cases, 90 *per cent* of the tax paid amounting to ₹ 14.51 crore had been refunded during the period from 2005-06 to 2008-09 (upto June 2009).

After we pointed this out in September 2009, the Deputy Commissioner (CT), Tiruppur replied that the refund/waiver was granted on the basis of the orders of the Government and was therefore, in order.

The grant of waiver/refund had resulted in levy of effective rate of one *per cent* on the inter-state sales of hosiery goods not covered by 'C' Form declarations instead of 10 *per cent* contemplated by the amendment made to the CST Act in May 2002.

We reported the matter to the Government in September 2009. We await the reply of the Government (December 2010).

2.14.3 Incorrect grant of exemption

The CST Act provides for levy of tax at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the State, whichever was higher, where such sales were not covered by valid declarations in Form 'C. The elements of surcharge and additional sales tax, wherever applicable, were also to be taken into consideration to arrive at the local rate of tax.

2.14.3.1 Under the TNGST Act, soya husk was taxable at the rate of 12 *per cent* at the point of first sale in the State.

During test check of the records in Fast Track Assessment Circle-I, Coimbatore we noticed in February 2009 that the assessing authority, while finalising the assessment of a dealer for the year 2002-03 in November 2007 had omitted to levy tax on the inter-state sale of soya husk valued at ₹ 1.56 crore. This resulted in non levy of tax of ₹ 23.60 lakh.

After we pointed this out in March 2009, the assessing authority revised the assessment in February 2010 and raised an additional demand of ₹ 23.60 lakh. The assessing authority further stated (February 2010) that the dealer had filed

[13] Kongu Nagar, Lakshmi Nagar, Tiruppur Bazaar, Tiruppur Central-I, Tiruppur Central II, Tiruppur (North), Tiruppur (South) and Tiruppur (Rural)

an appeal before the Appellate Joint Commissioner against the revision of assessment. We await the outcome of the appeal preferred by the dealer (December 2010).

We reported the matter to the Government in April 2010. We await the reply of the Government (December 2010).

Under the CST Act, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, and is exempted from tax if the last sale or purchase took place after and was for the purpose of complying with the agreement for or in relation to such export.

2.14.3.2 Under the TNGST Act, imported chemicals were taxable at the rate of 21 *per cent* (including surcharge) at the point of first sale in the State.

During test check of the records in Saidapet assessment circle, we noticed in July 2007 that the assessing officer while finalising the assessments of a dealer under the TNGST and CST Acts in October 2006, had allowed exemption on the sales turnover of imported chemicals amounting to ₹ 1.68 crore as sales made in the course of export. As the goods involved in the penultimate sale were imported chemicals and those exported were sea foods, the exemption allowed on the penultimate sale was not in order. This resulted in non-levy of tax of ₹ 35.36 lakh.

After we pointed this out in July 2007, the assessing authority revised the assessments in December 2009 and raised an additional demand of ₹ 35.36 lakh. We await the report regarding the collection of the additional demand (December 2010).

The Government, to whom we reported the matter in March 2010, accepted the audit observation and stated in July 2010 that the dealer had filed a writ petition against the revision of assessment. We await the outcome of the writ petition filed by the dealer (December 2010).

By a notification issued in April 1998, exemption was granted in respect of the tax payable by any dealer on the sale of raw materials, packing materials and consumables to the registered 100 *per cent* export oriented units. Under the residual entry 40 of Part D of the First Schedule to the TNGST Act, goods not specified elsewhere in any of the Schedules to the Act were taxable at the rate of 12 *per cent* at the point of first sale in the State.

2.14.3.3 During test check of the records in Ambattur assessment circle, we noticed in August 2008 that the assessing authority while finalising the assessment of a dealer for the year 2005-06 in June 2007 had allowed exemption on the turnover of ₹ 45.86 lakh as sale of cold forged components to 100 *per cent* export oriented units. We also found that the turnover included sale of ₹ 37.65 lakh made to an export

oriented unit, which was registered only during 2006-07 and thus the exemption was to be allowed from 2006-07 only. The incorrect grant of exemption during 2005-06 resulted in non-levy of tax of ₹ 4.74 lakh (inclusive of surcharge at the rate of five *per cent* on tax).

After we pointed this out in October 2008, the assessing authority revised the assessment in June 2009 and raised an additional demand of ₹ 4.74 lakh. We await the report regarding the collection of the additional demand (December 2010).

The Government, to whom we reported the matter in December 2009, accepted the audit observation and stated in July 2010 that the dealer had filed an appeal before the Appellate Deputy Commissioner against the revision of assessment. We await the outcome of the appeal filed by the dealer (December 2010).

2.14.4 Application of incorrect rate of tax

According to Section 3(2-C) of the TNGST Act read with the Eleventh Schedule, imported goods falling under Parts D and E of the First Schedule were taxable at the rate of 20 *per cent* at the point of first sale in the State. In addition, surcharge was leviable at the rate of five *per cent* on tax.

2.14.4.1 During test check of the records in Adyar II assessment circle, we noticed in October 2008 that the assessing authority, while finalising the assessments of two dealers for the years 2004-05 and 2005-06 during December 2007 and January 2008 had assessed the sale of imported field strength meter valued at ₹ 1.42 crore at the rate of 12 *per cent,* instead of at the applicable rate of 20 *per cent*. This resulted in short levy of tax of ₹ 11.96 lakh (inclusive of surcharge).

After we pointed this out in November 2008, the assessing authority revised the assessments in June 2010 and raised an additional demand of ₹ 11.96 lakh. We await the report regarding collection of the additional demand (December 2010).

We reported the matter to the Government in May 2010. We await the reply of the Government (December 2010).

According to Part-C of the First Schedule to the Tamil Nadu Value Added Tax Act, 2006, goods not specified elsewhere in any of the schedules to the Act were taxable at the rate of 12.5 *per cent* with effect from 1 January 2007. Subsequently, on 12 July 2007, the goods which would fall under Part-C were specified and according to which, talcum powder, prickly heat powder and similar medicated body powder were mentioned at Sl. 20 therein, attracting a tax of 12.5 *per cent*.

2.14.4.2 During test check of the records of Fast Track Assessment Circle IV, Chennai, we noticed in January 2010 that a dealer had classified the sale of prickly heat powder and cool herbal ayurvedic powder (sold under brand name 'Nycil') as drugs and medicines in the monthly returns for the period January 2007 to March 2007 and had paid tax at the rate of four *per cent* on the turnover of ₹ 1.68 crore instead of at the rate of 12.5 *per cent*. The assessment of the dealer was finalised under the TNVAT Act in September 2008 by accepting the returns filed by him. This resulted in short levy of tax of ₹ 14.26 lakh.

We pointed this out to the department in February 2010 and to the Government in April 2010. We await the reply of the department/Government (December 2010).

The CST Act provides for levy of tax at the rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the State, whichever was higher, where such sales were not covered by valid declarations in Form 'C. The elements of surcharge and additional sales tax, wherever applicable, were also to be taken into consideration to arrive at the local rate of tax.

2.14.4.3 During test check of the records in Fast Track Assessment Circle-III, Chennai, we noticed in October 2009 that the assessing authority, while finalising the assessment of a dealer for the year 2000-01 in November 2008, had assessed the inter-state sale of engines of motor vehicles valued at ₹ 5.83 crore at the rate of 14 *per cent* instead of at 15 *per cent*. This resulted in short levy of tax of ₹ 5.83 lakh.

After we pointed this out in October 2009, the assessing authority stated that he would call for further particulars and intimate the result to audit. We await further report from the department (December 2010).

We reported the matter to the Government in March 2010. We await the reply of the Government (December 2010).

2.14.5 Incorrect grant of concessional rate of tax

Section 3(5) of the TNGST Act provides for concessional rate of tax on sale of any goods which were mentioned in the Eighth Schedule and which were chargeable to tax under Section 3(2) of the TNGST Act. Accordingly, sewing machines and stabilizers, which were not mentioned in the Eighth schedule and which were taxable at the rates of 10 *per cent* and 12 *per cent* respectively, were not eligible for the concessional rate of tax.

During test check of the records in Porur and Tambaram-II assessment circles, we noticed that the assessing authorities, while finalising the assessments of two dealers for the year 2005-06 during March 2008 and April 2008 had erroneously allowed the concessional rate of tax of three *per cent* on the sale of goods not mentioned in the Eighth Schedule, viz., sewing machines and stabilizers. The erroneous allowance of the concessional rate of tax on the turnover of ₹ 1.58 crore, instead of levying tax at the schedule rates resulted in short levy of tax of ₹ 12.64 lakh.

We reported the matter to the department between October 2008 and July 2009 and to the Government during February 2010 and March 2010. The Government in the case pertaining to Tambaram II assessment circle did not accept the audit observation and stated that the stabilizers manufactured by the dealers were electrical stabilizers and fall under "non-electronic voltage stabilizers" mentioned in Sl. No. 2 of the Eighth Schedule. The reply of the Government is not acceptable as the Supreme Court has held[14] that stabilizers are "electronic goods" and not "electrical goods". We await the reply of the department/Government in respect of the other case (December 2010).

2.14.6 Incorrect computation of taxable turnover

Section 16 of the TNGST Act, provides for re-assessment of the tax due within a period of five years from the date of order of final assessment where the whole or any part of the turnover of a dealer had escaped assessment. Sub section (2) of the said Section also provides for levy of penalty at appropriate rates, where the escapement was due to willful non-disclosure of turnover by the assessee.

Under the TNGST Act, iron scrap was taxable at the rate of four *per cent* at the point of first sale in the State.

During test check of the records in Kamarajar Salai assessment circle, Madurai, we noticed in December 2008 that the assessing authority while finalising the assessment of a dealer for the year 2005-06 in December

[14] Commissioner of Trade Tax, UP vs. Parikh Gramodyog Sansthan – (2010) 34 VST 1 (SC)

2007 had allowed exemption on a turnover of ₹ 3.22 crore treating it as second sale of iron scrap. The assessing authority, while allowing such exemption, however, failed to cross check the transactions with the books of account of the selling dealer, though the selling dealer was also assessed to tax in the same assessment circle and the commodity was also identified by the department as an evasion prone commodity. We undertook cross verification to ensure the correctness of the exemption granted as second sales. Such cross verification revealed that though the dealer had claimed to have purchased iron scrap for ₹ 1.73 crore from the selling dealer of the same assessment circle, the selling dealer had reported a total turnover of only ₹ 35.64 lakh during the year.

On the basis of our observation, the assessing authority undertook a scrutiny of accounts and found out that the selling dealer had suppressed the sales turnover of iron scrap effected by him during the year. The assessing authority accordingly determined the taxable turnover of the dealer as ₹ 4.20 crore and levied tax of ₹ 16.79 lakh and penalty of ₹ 25.19 lakh by revision of assessment in April 2009. We await the details of collection of the additional demand (December 2010).

We reported the matter to the Government in April 2010. We await the reply of the Government (December 2010).

2.14.7 Short levy of tax

By a notification issued in March 2002 under the TNGST Act, Government reduced the rate of tax to four *per cent* with effect from 1 April 2002 in respect of the tax payable by any dealer on the sale of any goods except petrol, diesel and cement to the State and Central Government departments, subject to production of a prescribed certificate. According to Section 8(1) of the CST Act, on sale of goods to Government departments, tax was leviable at the rate of four *per cent* upto 31 December 2006, if the sales were covered by valid declarations in Form 'D'.

2.14.7.1 During test check of the records of Fast Track Assessment Circle-IV, Chennai, we noticed in January 2009 and January 2010 that the assessing authority while finalising the assessments of two dealers for the years 2001-02, 2003-04 and 2004-05 during January 2008/March 2008, had erroneously allowed the concessional rate of tax of four *per cent* on the sale of lubricating oil to Chennai Corporation and on inter-state sale of bitumen and mineral oil to panchayats and municipal corporations. The erroneous allowance of the concessional rate on the sales turnover of ₹ 2.96 crore resulted in short levy of tax of ₹ 31.98 lakh (inclusive of surcharge and additional sales tax).

After we pointed this out to the department during March 2009 and February 2010, the assessing authority revised the assessment in respect of the sales made to Chennai Corporation in May 2010 and raised an additional demand of

₹ 4.13 lakh. We await the report regarding the collection of the additional demand and the reply of the department in the other cases (December 2010).

We reported the matter to the Government in April 2010. We await the reply of the Government (December 2010).

Section 3-A of the TNGST Act provides for levy of tax on the taxable turnover relating to the business of transfer of the right to use any goods at the rates prescribed for the goods in the schedules to the Act. Windmills and any specially designed devices which run on windmills were taxable at the rate of four *per cent* at the point of first sale in the State with effect from 27 March 2002. In addition, surcharge at the rate of five *per cent* on tax and additional sales tax at the prescribed rate on the taxable turnover was also leviable.

2.14.7.2 During test check of the records of T.Nagar (East) assessment circle, we noticed in September 2007 that an assessee had earned ₹ 83.64 lakh and ₹ 55.76 lakh towards lease of windmill equipments during the years 2002-03 and 2003-04 respectively. The receipts were liable to levy of tax of four *per cent*. However, the assessing authority while finalising the assessments of the dealer during September 2004 and October 2005 had levied tax at the rate of one *per cent* in respect of 2002-03 and had exempted the turnover relating to 2003-04. This resulted in non/short levy of tax of ₹ 6.40 lakh.

After we pointed this out in March 2008, the assessing authority revised the assessment in June 2009 and collected the additional demand of ₹ 5.19 lakh. The assessing authority, however, failed to levy additional sales tax of ₹ 1.21 lakh while making revision of assessment for the year 2003-04. We await the report regarding levy of additional sales tax in respect of assessment year 2003-04 (December 2010).

We reported the matter to the Government in June 2010. We await the reply of the Government (December 2010).

2.14.8 Erroneous treatment of sale as works contract

According to Section 3(2) of the TNGST Act, tax was leviable on the sale of goods at the rates mentioned in the relevant schedules to the Act. According to Section 7C of the Act, in respect of works contract, a dealer had the option of paying tax at four *per cent* of the total contract value of the works executed.

The Supreme Court has held[15] that if a thing to be delivered has any individual existence before the delivery as the sole property of the party who is to deliver it, then it is a sale.

[15] Hindustan Shipyard Ltd. Vs. State of Andhra Pradesh – 119 STC P.533 (SC)
State of Andhra Pradesh Vs. Kone Elevators – 140 STC P.22 (SC)

During test check of the records in Mandaveli and Peelamedu (South) assessment circles, we noticed that the assessing authorities, while finalising the assessments of two dealers for the year 2005-06 during September/ October 2007, incorrectly treated the sales as contracts for work and levied tax as applicable for works contract. This resulted in short levy of tax of ₹ 27.84 lakh (inclusive of surcharge) as mentioned below:

(₹ in lakh)

Sl. No.	Assessment circle (No.of dealers)	Year of transaction (Month/ Year of assessment)	Nature of transaction	Taxable turnover	Rate of Tax (*per cent*)		Amount short levied
					Applicable	Applied	
1	Mandaveli (1)	2005-06 (September 2007)	Modular kitchen	200.01	12	4	16.80
Remarks: After we pointed this out in November 2008, the assessing authority stated that the kitchen units which were fixed to the wall were not capable of being removed or dismantled and the assessment made at four *per cent* based on the option filed by the dealer under Section 7C of the Act was in order. The reply is not tenable as the major component of the contract involved supply of material and the transaction was one of sale and not works contract.							
2	Peelamedu (South) (1)	2005-06 (October 2007)	Supply and installation of generator sets.	87.64	16	4	11.04
Remarks: After we pointed this out in October 2009, the assessing authority revised the assessment in July 2010 and raised an additional demand of ₹ 11.04 lakh. We await the report regarding collection of the additional demand (December 2010).							
Total							27.84

We reported the matter to the Government in June 2010. The Government accepted the audit observation pertaining to Peelamedu (South) assessment circle in October 2010. We await the reply of the Government in the other case (December 2010).

2.14.9 Excess allowance of input tax credit

The TNVAT Rules provide that where the purchases have been effected from a second and subsequent dealer, the claim of input tax credit (ITC) shall be restricted to the extent of the tax calculated on the purchase value of goods after deducting fifteen *per cent* and by using the tax fraction formula at the rate specified in the relevant Schedule under the TNGST Act.

2.14.9.1 During test check of the records in Gugai assessment circle, Salem, we noticed in November 2009 that a dealer had returned a purchase turnover of bullion of ₹ 4.73 crore in Form V and claimed ITC of ₹ 9.46 lakh. As the purchase of bullion had been effected from second and subsequent dealers, the amount of ITC allowable to the dealer as per the tax fraction formula was ₹ 3.98 lakh. The assessing authority, however, admitted the claim of the dealer and passed orders in April 2007. This resulted in excess allowance of ITC of ₹ 5.48 lakh.

After we pointed this out in November 2009, the assessing authority replied that revision of assessment would be considered after recheck of accounts. We await further report from the assessing authority (December 2010).

We reported the matter to the Government in January 2010. We await the reply of the Government (December 2010).

> According to Section 19(5)(a) of the TNVAT Act and the rules made there under, no input tax credit shall be allowed in respect of sale of goods exempted under Section 15.

2.14.9.2 During test check of the records of Fast Track Assessment Circle-I, Coimbatore and Salem Bazaar assessment circles, we noticed during September 2009 and February 2010 that two dealers whose assessments for the year 2006-07 under the TNVAT Act had been finalised in January 2009/March 2009 were allowed input tax credit of ₹ 5.83 lakh in respect of purchases relating to sale of goods exempted under Section 15 of the Act.

After we pointed this out during September 2009 and March 2010, the assessing authority, Salem Bazaar assessment circle reversed the input tax credit of ₹ 1.55 lakh relating to the sale of exempted goods. We await the reply of the assessing authority in the other case (December 2010).

We reported the matter to the Government between January 2010 and April 2010 and await the reply of the Government (December 2010).

2.14.10 Non-levy of additional sales tax

> According to the provisions of the Tamil Nadu Additional Sales Tax Act, 1970, (TNAST Act) every dealer whose taxable turnover for a year exceeded ₹ 10 crore was liable to pay additional sales tax (AST) at the prescribed rate on such turnover.

During test check of the records in Brough Road (Erode) assessment circle, we noticed that the assessing authority, while finalising the assessment of a dealer for the year 2005-06 had omitted to levy AST of ₹ 11.37 lakh, even though the taxable turnover of the dealer was ₹ 11.37 crore.

After we pointed this out in February 2009, the assessing authority revised the assessment in September 2009 and raised an additional demand of ₹ 11.37 lakh. We await the report regarding the collection of the additional demand (December 2010).

The Government, to whom we reported the matter in May 2009, accepted the audit observation.

2.14.11 Retention of tax collected by the dealer

Section 40(2) of the TNVAT Act provides that if any dealer collects any amount by way of tax in contravention of the provisions of the Act, the assessing authority may impose by way of penalty, a sum equal to one hundred *per cent* of the amount collected, where the excess amount had been collected in the bona fide belief that it had to be collected.

Under entry 149 of Part B of the First Schedule to the TNVAT Act, sale of wheat was taxable at the rate of four *per cent* with effect from 1 January 2007. By a notification issued in March 2007, the rate was reduced to two *per cent* with retrospective effect from 1 January 2007.

During test check of the records of Tuticorin II assessment circle, we noticed that a dealer had collected tax at four *per cent* on the sale of wheat. The dealer had remitted tax of four *per cent* on the sale of wheat during January 2007 and February 2007 but had not remitted the entire tax for March 2007 on the ground that the excess collection of tax had been refunded to the customers. No documentary evidence of refund of tax was furnished by the assessee, which suggested the possibility of undue enrichment on account of retention of tax of ₹ 9.49 lakh collected by the dealer. The assessing authority, while finalising the assessment of the dealer for the year 2006-07 in November 2008, however, failed to levy penalty for the retention of tax collected in excess by the assessee.

After we pointed this out in July 2009, the assessing authority levied penalty of ₹ 23.14 lakh in October 2009, including the amount pointed out in audit. We await the collection particulars of the amount of penalty levied by the assessing authority (December 2010).

We reported the matter to the Government in January 2010. We await the reply of the Government (December 2010).

2.14.12 Non-levy of penalty

Section 12(3)(b) of the TNGST Act provides for levy of penalty at the rate of 150 *per cent* of the difference of the tax assessed and the tax paid, if the tax paid as per the returns fell short of the tax assessed by more than 75 *per cent*. The Section also provides for deduction of the tax assessed on the estimated turnover from the tax assessed on final assessment.

During test check of the records in Ayanavaram assessment circle, we noticed that the assessing authority, while finalising the assessment of a dealer for the year 2003-04 during July 2007 had omitted to levy penalty though the dealers had paid only ₹ 1.03 lakh as against the assessed tax of ₹ 12.77 lakh (after excluding the tax assessed on the estimated turnover). The penalty leviable was ₹ 17.61 lakh calculated at 150 *per cent* of the balance amount of tax of ₹ 11.74 lakh.

After we pointed this out in May 2009, the assessing authority levied penalty of ₹ 14.67 lakh in January 2010 as against the correct amount of ₹ 17.61 lakh. We brought the short fall in levy of penalty to the notice of the assessing authority. We await further report (December 2010).

We reported the matter to the Government in April 2010. We await the reply of the Government (December 2010).

B – LUXURY TAX

2.15 Non-compliance of the provisions of the Act/Rules

The provisions of the Tamil Nadu Tax on Luxuries Act and Rules made thereunder require

(i) the collection and payment of tax by the proprietors of hotels on the luxury provided in a hotel in respect of every room under occupation by a person at the prescribed rates; and,

(ii) the payment of the tax due by the proprietor of hotels along with the return.

We noticed non-compliance of the provisions of the Act/Rules in some cases, which resulted in non/short realisation of ₹ 0.90 crore. These cases are mentioned in paragraphs 2.15.1 and 2.15.2

2.15.1 Short levy of luxury tax

The Tamil Nadu Tax on Luxuries Act, 1981 provides for re-assessment of the tax due within a period of five years from the expiry of the year to which the tax relates, where the whole or part of any luxury had escaped assessment. The Act also provides for levy of penalty not exceeding one and a half times the tax so assessed, where the escapement from assessment was due to willful non disclosure of any facts in the return or in the accounts, registers or records or other documents maintained by the proprietor and produced before the assessing authority.

Section 4 of the Tamil Nadu Tax on Luxuries Act provides for levy and collection of tax on the luxury provided in a hotel in respect of every room under occupation by any person at the rates prescribed therein. The department has not prescribed any mechanism for cross verification with the records of other departments to ensure the correctness of the rental income furnished by the proprietors of hotels for payment of luxury tax.

We cross verified the turnover reported by the proprietors of hotels for payment of luxury tax with the details of room rent

collections reported in their income tax returns. The verification revealed that the proprietors of five hotels in three assessment circles[16] had reported room rent collection of ₹ 7.71 crore in the income tax returns during the years 2004-05 to 2007-08. However, the luxury tax assessment in respect of the proprietors for the said period was made on a turnover of ₹ 4.81 crore only.

We reported the matter to the Government in June 2010. The Government accepted the audit observation in October 2010 and stated that the assessing authorities had revised the assessments between April 2010 and August 2010 in three cases and raised an additional demand of ₹ 63.27 lakh of which an amount of ₹ 3.20 lakh was recovered. The Government further stated that notices proposing revision of assessment had been issued in two cases, involving tax and penalty of ₹ 16.59 lakh. We await further report from the Government (December 2010).

2.15.2 Non-levy of penalty

The Tamil Nadu Tax on Luxuries Act stipulates that where a proprietor, liable to pay tax under the Act, fails without sufficient cause or neglects to pay into the Government account the tax due according to the return, the assessing authority may impose upon such proprietor by way of penalty a sum not exceeding one and a half times the amount of tax.

During test check of the records in three assessment circles[17], we noticed that four dealers had paid ₹ 4.14 lakh as against the assessed tax of ₹ 10.64 lakh. The assessing authorities, while finalising the assessments of the dealers for the years 2004-05 and 2005-06 between March 2006 and January 2009, however, omitted to levy penalty for the short payment of tax.

We reported the matter to the Government in June 2010. The Government accepted the audit observation in October 2010 and stated that the assessing authorities had issued orders in July/August 2010 levying penalty of ₹ 9.75 lakh. We await the report regarding collection of the amount of penalty (December 2010).

16 Arisipalayam, Salem (Rural) and Tiruvanmiyur
17 T.Nagar (East), T.Nagar (North) and Tiruvanmiyur

CHAPTER III

OTHER TAX RECEIPTS

3.1 Results of audit

We noticed during test check of the records of 153 offices during the period from April 2009 to March 2010 that there was non/short collection of tax, fees, penalty, licence fees, etc., and other audit observations amounting to ₹ 45.30 crore in 305 cases as mentioned below[18]:

(₹ in lakh)

Sl. no.	Categories	No. of cases	Amount
	A - Taxes on vehicles		
1	Non/short collection of tax	55	1,509.56
2	Non/short collection of fees	31	59.84
3	Non/short collection of penalty	26	71.47
4	Others	5	15.57
	Sub-total	**117**	**1,656.44**
	B - State excise		
1	Non/short collection of licence fee/privilege fee	14	870.09
2	Non/short collection of administrative service fee	3	2.46
3	Non/short collection of penalty and interest	11	118.08
4	Others	4	4.55
	Sub-total	**32**	**995.18**
	C - Land revenue		
1	Encroachment of Government lands by private educational institutions	1	----
2	Short recovery of value/rent in respect of land assigned, alienated or evicted	15	522.74
3	Non-levy of penalty/interest	5	33.59
4	Others	135	1,321.97
	Sub-total	**156**	**1,878.30**
	Total	**305**	**4,529.92**

[18] Offices pertaining to the heads of revenue (three) included in this chapter.

During the year 2009-10, the concerned departments accepted under-assessments, non/short collection of tax, fees, penalty etc., amounting to ₹ 3.16 crore in 207 cases of which ₹ 42.44 lakh pertaining to nine cases was pointed out in 2009-10 and the rest in earlier years. An amount of ₹ 2.42 crore was realised during the year.

A few illustrative cases involving ₹ 14.15 crore are mentioned in the following paragraphs:

A – TAXES ON VEHICLES

3.2 Audit observations

We test checked the records in the offices of Home and Revenue departments relating to revenue received from tax, fee, rent, etc. and noticed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax, fees and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by us. Although such omissions are pointed out every year, the irregularities do persist and remain undetected till the next audit is conducted. There is need for the Government to consider directing the department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.

3.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Tamil Nadu Motor Vehicles Taxation Act, 1974 and Rules made thereunder require payment of:

(i) *motor vehicles tax/additional tax in advance and within the grace period so provided, by the vehicle owner at the appropriate rate and*

(ii) *differential tax when a stage carriage is used as a contract carriage.*

We noticed non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 3.3.1 to 3.3.3 which resulted in non/short realisation of ₹7.79 crore.

3.3.1 Non-levy of additional tax on reserve stage carriages

According to Section 11 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, when any motor vehicle, in respect of which tax has been paid, is altered or proposed to be used in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of it being altered.

During test check of the records in three Regional Transport Offices (RTO)[19] we noticed that 8,677 special permits were issued during 2008-09 to 120 spare buses of stage carriages[20] (reserve stage carriages) to operate as 'contract carriages' without collecting the tax as applicable to the contract carriages for the period of permit. The tax for contract carriages is ₹ 3,000 per seat per quarter while for spare buses, the tax is ₹ 375 per seat per quarter. The vehicle owners were liable to pay tax of ₹ 8.06 crore against which ₹ 1.01 crore was collected. This resulted in short recovery of ₹ 7.05 crore.

We pointed this out to the department in December 2009/January 2010. The Commissioner while accepting the audit observation for a similar paragraph (3.2.13) included in the Audit Report 2007-08 had replied that necessary proposal had been sent for amendment of the Act. We await further report (December 2010).

We reported the matter to the Government in April 2010 and are awaiting their reply (December 2010).

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19 Karur, Salem (East) and Tirunelveli.

20 Reserve stage carriages are the buses deployed in the event of break down of the stage carriage buses. On the other hand, contract carriages are the ones used for special purposes on contract.

3.3.2 Short collection of composite tax

The Government of Tamil Nadu issued a notification (December 2008) enhancing the amount of composite tax payable on goods carriages registered in other states and authorised to ply in the state of Tamil Nadu under the national permit from ₹ 3,000 to ₹ 5,000 per annum per vehicle with effect from 12 December 2008.

During test check of the records of eight RTOs[21] as well as unit offices and check posts under their jurisdiction, we noticed that the composite tax at enhanced rate was not collected in respect of 1,640 goods vehicles of other states plying in Tamil Nadu between 12 December 2008 and 29 March 2009. The omission had resulted in short collection of composite tax to an extent of ₹ 36.92 lakh.

We pointed this out to the department between November 2009 and March 2010 and to the Government in February/March 2010. The Government in April 2010 accepted the audit observation in respect of three cases[22] and stated that the amount would be collected. We are awaiting reply in respect of other cases (December 2010).

3.3.3 Short collection of tax in respect of temporary permits issued to other state omni buses.

As per Schedule 6 of the Tamil Nadu Motor Vehicles Taxation Act, 1974, a temporary licence for a period not exceeding seven days or thirty days or ninety days at a time may be issued, in respect of any class of motor vehicles specified in the First Schedule, on payment of tax.

The amount of tax payable is 1/10th of the quarterly tax in the case of temporary licence not exceeding seven days; 1/3rd of the quarterly tax in the case of temporary licence issued for a period between seven and 30 days and full quarterly tax in the case of temporary licence issued for a period exceeding 30 days.

During test check of the records of seven RTOs[23], (between August 2008 and February 2010), we noticed that in respect of 117 other state omni buses, temporary licenses for a period less than seven days and less than 30 days were initially issued and tax was collected at 1/10th and 1/3rd of the quarterly tax, depending upon the period for which the permit was issued. However, when the temporary licenses for the buses were extended beyond the period of seven and 30 days, the RTOs concerned had calculated the tax for the extended period

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21 Coimbatore (South), Erode, Karur, Krishnagiri, Salem (East), Tirunelveli, Tiruvallore and Vellore.

22 Karur, Krishnagiri and Tirunelveli.

23 Chennai (East), Coimbatore (South), Erode, Namakkal, Salem (East), Tirunelveli and Vellore.

alone instead of taking into account the entire period for which the temporary licenses were issued. Thus, though tax at 1/3rd of the quarterly tax and full quarterly tax were to be collected for the entire period for which the temporary licenses were issued, the RTO concerned had collected the tax at lesser rates which resulted in short collection of tax of ₹ 37.03 lakh.

We pointed this out to the department between November 2009 and January 2010. The department accepted (March 2010) the audit observation and stated that the amount would be collected in due course. We are awaiting the collection particulars (December 2010).

We reported the matter to the Government in February/March 2010 and are awaiting their reply (December 2010).

B – STATE EXCISE

3.4 Non-levy of interest for belated payment of arrears

Under the provisions of Section 18 I (1) of the Tamil Nadu Prohibition Act, 1937, the Government vide a notification issued in April 2004 ordered to collect interest, on the amount due to the State Government, under the provisions of the Act or the rules made thereunder at 12 *per cent* with effect from 12 May 1981.

During test check of the records in the office of the Deputy Commissioner (Excise) Coimbatore in December 2009 we noticed that while notional loss amount pertaining to the period between 1981-82 and 1984-85 was collected by three Divisional Excise Officers (DEO)[24] during 2008-09, interest of ₹ 37.08 lakh was omitted to be levied.

We reported the matter to the Government in April 2010. The Government replied (May 2010) that the DEOs have been instructed to collect the interest. We are awaiting further report (December 2010).

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24 Coimbatore (North and South) and Pollachi.

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C – LAND REVENUE

3.5 Non-compliance of the provisions of the Acts/Rules

The Board of Revenue Standing Orders and the Government Orders issued from time to time require

(i) removal of encroachments which are objectionable in nature;

(ii) payment of land cost whenever land is alienated for commercial/non-commerical purposes; and

(iii) payment of lease rent, local cess and local cess surcharge in respect of land leased out.

We noticed non-compliance of the provisions of the Act/Rules in some cases as mentioned in paragraphs 3.5.1 to 3.5.3 which resulted in non/short realisation of ₹5.98 crore.

3.5.1 Encroachment of Government lands by private educational institutions

As per the Standing Order 26 of the Board of Revenue, where encroachments are objectionable in nature, the encroachers should be evicted.

According to Sections 3 and 5 of the Tamil Nadu Land Encroachment Act, 1905, any person unauthorisedly occupying government lands shall pay, by way of full assessment and penalty, a sum not exceeding ₹ 5 or when ten times the assessment exceeds ₹ 5, a sum not exceeding ten times of such assessment if the land is assessed. If the land is unassessed, a penalty of a sum not exceeding ₹ 10, or when twenty times of assessment exceeds ₹ 10, a sum not exceeding twenty times of such assessment is leviable. The assessment was fixed at the time of enactment of the Act in 1905, to compel the encroacher to surrender the land immediately. It has not been amended since then.

According to Section 25 of the Limitations Act, 1963, where the enjoyment rights over government lands is for more than 30 years, the right shall be absolute and indefeasible.

Mention of "Encroachment on Government Lands" was made in para 5.2 of the Report of Comptroller and Auditor General of India for the year 1986-87. The Committee on Public Accounts in their 2nd Report placed in the Eleventh Assembly on 30 August 1996 felt that the existing measures adopted by the Department were not effective in dealing with encroachment of government land and speedy enactment of amendments to

the Tamil Nadu Land Encroachment Act was needed with a view to bring encroachments under effective control. However, no such enactment has been made so far.

A review on Encroachment of Government lands was also included as Para 3.2 in the Report of the Comptroller and Auditor General of India for the year 2002-03. The Government in reply to the review stated in August 2003 that repeal of the old Act (1905) and re-enactment of a new Act with necessary provisions to meet the existing contingencies in the eviction of encroachment, like levy of high rate of penalty, punishment for land grabbing, simplifying the procedure for eviction, etc., was under their consideration. However, even after seven years no such enactment has been made and the encroachments continued. The Public Accounts Committee discussed the above review in June 2010 and the recommendations are yet to be placed on the Table of the State Legislature.

We observed during test check of the records in 15 Taluks[25] during the period from January to March 2010 that 40 private engineering colleges had encroached Government lands to the extent of 170.38.8 hectares. The period of encroachment ranged from 5 to 25 years. As all the encroachments are objectionable, they were to be summarily evicted. The total cost of the lands encroached based on the value as on 1 August 2007 worked out to ₹ 178.31 crore.

Further, the penalty for encroachment continues to be a meagre ₹ 5 or ₹ 10 per case per year, since 1905 and has not been revised. This in no way serves as a deterrent to the large scale encroachments.

We pointed this out to the department between January and March 2010. The department replied that all the encroachments were objectionable and they would take action to evict them. We are awaiting further report (December 2010).

We reported the matter to the Government in May 2010 and are awaiting their reply (December 2010).

We recommend that the Government may take necessary steps to clear those encroachments which are objectionable and to increase the rate of penalty to act as a stringent deterrent.

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25 Ambattur, Chengleput, Cheyyur, Coimbatore (South), Gummidipoondi, Kanchipuram, Madurai (North and South), Musiri, Poonamallee, Sriperumbudur, Srirangam, Thanjavur, Thiruthani and Tiruchirappalli

3.5.2 Non-realisation of land cost

> As per the Standing Order 24(1) of the Board of Revenue, Government lands can be granted for public purpose on collection of the land cost.
> The authorities competent to grant land may, in cases of emergency, permit entry upon the land, pending issue of formal orders sanctioning the grant.

During test check of the records in Agastheeswaram and Palayamkottai Taluk offices in December 2008 and August 2005 we noticed that 'enter upon' permission was given to two 'undertakings' for control and enjoyment of 1.03 lakh square feet of land. However, the land cost has not been fixed till date. This resulted in non collection of land cost of ₹ 2.36 crore as detailed below:

Sl. No.	Name of the Taluk/ Name of the undertaking	Date of enter upon permission/ Extent (in square foot)	Value of the land (₹ in crore)	Remarks
1	Agasthee-swaram/ Tamil Nadu Electricity Board	March 1992/ 66,211	2.04	We pointed this out to the department in May 2009; the department replied that they have sent the alienation proposals to the District Collector in 2002 and further stated that as the land has been classified as "Kulam Poramboke[26]", they were awaiting final orders from the Government. The reply is not acceptable since the department has not forwarded the proposal for fixing the land cost to the Head of the department/Government till date i.e., even after a lapse of 10 years. The land was under continuous enjoyment of the Board without any revenue to the Government.
2	Palayamkottai/ Tamil Nadu Tourism Development Corporation	May 2000/ 36,427	0.32	We pointed this out to the department in September 2005. The department replied during audit (August 2005) that they were awaiting final orders from the Government. The fact remains that the land was under continuous enjoyment of the Tourism Department without realisation of land cost.
	Total		**2.36**	

We reported the matter to the Government in January 2009/May 2010 and are awaiting their reply (December 2010).

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[26] Kulam Poromboke – Government waste land for water bed.

3.5.3 Non-realisation of lease rent

As per Standing Order 24-A of the Board of Revenue, Government lands can be leased out to private bodies, companies, associations or local bodies for use by them for commercial purposes, on payment of lease rent at the rate of 14 *per cent* per annum (including local cess and local cess surcharge) on the market value of the land.

During test check of the records of Taluk offices, Chingleput and Rajapalayam in August 2008/November 2009, we noticed that 1,222 cents[27] of Government land were leased out to two entities (in November 1999 and April 2000). However, due to non-fixation of value of the land, the lease rent of ₹ 3.62 crore including local cess and local cess surcharge was not collected as detailed below:

Sl. No.	Name of the Taluk/ Name of the undertaking	Extent/ Period for which lease rent is due	When leased out	Lease rent (₹ in crore)	Remarks
1	Rajapalayam/ Singarajakottai Rajus' Association	98 cents/ April 2000 to March 2010	April 2000	2.97	We pointed this out to the department in December 2009; the department replied during audit that they would take action to collect the lease rent and furnish the collection particulars.
2	Chingleput/ PSB Educational Trust	1,124 cents/ July 2007 to June 2009	November 1999	0.65	We pointed this out to the department in October 2008. A proposal fixing the market value at ₹ 20,772 per cent was forwarded by the District Collector to the Government in December 2008. The same is yet to be approved.
	Total			3.62	

27 A cent is equal to 436.66 square feet.

We reported the matter to the Government in January 2009/May 2010. We are awaiting their reply (December 2010).

Chennai	**(SUBHASHINI SRINIVASAN)**
Dated	**Principal Accountant General**
	(Commercial and Receipt Audit)
	Tamil Nadu

Countersigned by

New Delhi	**(VINOD RAI)**
Dated	**Comptroller and Auditor General of India**

ANNEXURE
(Refer to Paragraph 1.4 of Chapter I)

Sl. No.	Name of the Department	Nature of receipts	Auditable units	Units planned	Units audited
1.	Commercial Taxes and Registration	Sales tax	392	235	235
		Stamp duty and registration fees	567	240	240
2	Revenue	Land revenue[28]	206	100	100
		Urban land tax	52	20	20
3	Home (Transport)	Taxes on vehicles	49	23	23
4	Home (Prohibition and Excise)	State excise	60	30	30
5	Industries	Mines and minerals	28	5	5
6	Energy	Electricity duty	23	12	12
Total			**1,377**	**665**	**665**

[28] There are 206 land revenue offices to be audited. Out of this every year 103 offices are taken for audit under biennial audit plan.

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